

★ JUL 31 2012 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

JAMES MARKELLOS,

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Petitioner,

-against-

ORDER

**11-CV-1419 (NGG)
12-CV-3045 (NGG)**

UNITED STATES,

Respondent.

-----X

NICHOLAS G. GARAUFIS, United States District Judge.

Pro se Petitioner James Markellos, who is currently serving a state sentence at Bare Hill Correctional Facility in Franklin County, New York, has two petitions pending before this court: one styled as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2255, and another styled as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Both petitions seek the same relief, namely, that the court dismiss a federal detainer lodged against Markellos based on the allegation that he violated the terms of his supervised release or, in the alternative, to produce him immediately with regard to his alleged violation of supervised release.

On July 25, 2012, the court held a violation hearing, and, as a result of that hearing, lifted the detainer.¹ Since Markellos has already obtained the relief he sought in his habeas petitions, both petitions are dismissed as moot.² See Depina v. Shanahan, 2011 WL 3586440 (S.D.N.Y 2011) (dismissing habeas petition as moot because the only relief petitioner sought had been

¹ At the hearing Markellos pled guilty to violating his supervised release. The court ordered Markellos' sentencing in abeyance until Markellos completed or failed to complete a work-release program pursuant to his state parole.

² Since both petitions are moot, the court need not determine whether the petitions would be properly brought pursuant to 28 U.S.C. § 2255 or 28 U.S.C. § 2241.

previously granted); Powell v. McCormick, 395 U.S. 486, 495 (1969) (“[A] case is moot when the issues presented are no longer ‘live’”).

SO ORDERED.

s/Nicholas G. Garaufis

Dated: Brooklyn, New York
July 30, 2012

NICHOLAS G. GARAUFIS
United States District Judge